

IN THE UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TENNESSEE
AT WINCHESTER

ROBERT L. BUSHNELL, Individually
and d/b/a QUALITY COLLISION
AND TOWING

Plaintiffs,

v.

BEDFORD COUNTY, TENNESSEE,
a political subdivision of the State of
Tennessee; CITY OF SHELBYVILLE, a
Political Subdivision of the State of
Tennessee; SHELBYVILLE POLICE
DEPARTMENT; RAY BROWN,
Individually, and d/b/a RAY'S PAINT
AND BODY SHOP; & BEECHES
BODY SHOP

Defendants .

2009 JUL 27 P 1:58

U.S. DISTRICT COURT
EASTERN DISTRICT OF
TENNESSEE
WINCHESTER
CLERK

Civil Action No: 4:08-cv-81

MOTION FOR SUMMARY JUDGMENT BY DEFENDANT RAY BROWN

Comes now defendant Ray Brown individually and d/b/a as Ray's Paint and Body, pursuant to Fed. R. Civ. P. 56, and moves this Honorable Court for a summary judgment dismissing all claims against him on the ground that no genuine issues of material fact exist for trial, and this defendant is entitled to judgment as a matter of law. This defendant relies on the pleadings filed in this action, the affidavit of defendant Ray Brown, the Memorandum in Support of Motion for Summary Judgment, and Initial disclosures under Rule 26. For cause the defendant represents the following:

1. The plaintiff has failed to establish a cause of action against the defendant and the record is devoid of any specific claim or evidence to support any claim of conduct, actionable under any theory of law, against this defendant. The plaintiff fails to state a claim on which relief can be granted.

2. The defendant is not a relative of J.C. Beech as alleged and was merely an employee of Beech Body Shop and his heirs after his death.
3. The defendant opened Ray's Paint and Body Shop on April 1, 2008 and he is not a successor in interest of Beech Body Shop.
4. The defendant does not possess any of the business records of Beech Body Shop.
5. The defendant did not have management, policymaking, or supervisory authority for Beech Body Shop, Bedford County, Shelbyville Police Department or the City of Shelbyville for civil rights purposes assuming these allegations were true.
6. Tennessee Code Annotated § 5-14-108 is not applicable to this defendant since he has no policy making or contractual authority for Bedford County, City of Shelbyville, or the Shelbyville Police Department.
7. Tennessee Code Annotated § 39-16-402 is not applicable to this defendant since this statute prohibits unlawful conduct by public servants as defined under T.C.A. § 39-16-401.
8. The defendant has not committed and the plaintiff has not alleged conduct that would violate interstate commerce.
9. No act or omission committed by this defendant caused this plaintiff's constitutional rights to be violated under 42 U.S.C. § 1983.
10. The defendant has not violated any state or federal laws.

Wherefore, Ray Brown individually and d/b/a as Ray's Paint and Body Shop, respectfully requests that a summary judgment be entered in his favor dismissing all claims against him with prejudice and award this defendant his costs and attorney fees

pursuant to 42 U.S.C. § 1988 and any other relief to which he may be entitled.

Respectfully submitted,

ROGER CLAY PARKER

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CERTIFICATE OF SERVICE

I hereby certify that I have served a true and exact copy of the foregoing Motion for Summary Judgment on the below listed parties by U.S. mail, postage prepaid, fax, or hand delivery, this the 23 day of July 2009.

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